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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,717	09/26/2003	Mark Willer	066042-9415-01	1118
23409 7590 10/31/2007 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202			EXAMINER ALIE, GHASSEM	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 10/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/672,717

Applicant(s)

WILLER ET AL.

Examiner

Ghassem Alie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08/14/07.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-8, 10, 11, 16-18, 20 and 46-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 6-8, 10-11, 16-18, 20, and 46-61 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. This is a response to the reply filed on amendment filed on 08/14/07. Applicant has amended the pending claims and converted dependent claims 16, 17, 54, and 55 to new independent claims. In addition, applicant divided the depending claims into four different groups in which each group depends from one of the new independent claim. Applicant also stated that the new independent claims and dependent claims have been examined before and do not require additional or separate searches for appropriate consideration. This is incorrect. Firstly, applicant added new distinct independent claims that are drawn to four distinct separate inventions. Secondly, newly assigned dependent claims which are now dependent from new independent claims have been not been considered in combination with the new independent claims. Therefore, each invention including one of the new independent claim and dependent claims require a new search and consideration. Therefore, amended claims necessitated a restriction requirement as set forth below.

***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 9-8, 10-11, 16, and 46-49 4, drawn to a saw including a quick locking Member including a quick-locking member including a third member that is connected the the first and second members and moves into and out of engagement with the cover, , classified in class 30, subclass 391.

II. Claims 17-18 and 20, drawn to a saw including a circular saw that has a second over connected to the housing and disposed between the circular saw blade and the first cover, and the second cover at least partially covering the circular saw when the first cover is both connected to and disconnected from the housing, classified in class 30, subclass 389.

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III. Claims 50-51, 54, 56-57, and 60, drawn to a saw including a handle portion gripable by a user and a quick-locking member that is connected to the housing near the handle portion, classified in class 30, subclass 514.

IV. Claims 52, 55, 58-59, and 61, drawn to a saw including a second locking assembly cooperating with the quick-locking member to selectively lock the cover to the housing, classified in class 30, subclass 382.

It should be noted that claim 13 which depends on the canceled claim 12 is also cancelled, since it depends on a cancelled claim.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I-IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, e.g., subcombination I has a separate utility such as it could be used without the specific features cited in inventions II-IV. Conversely, each one of the subcombinations II-IV has a separate utility such as it could be used without the specific features set forth in invention I. See MPEP § 806.05(d). It should be noted that at least the specific above-mentioned features in each one of the inventions I-VI is not present in other remaining inventions.

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR

1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification and a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

5. Upon the election of one of the Groups above then applicant must further elect from the following Species

Species I. Figs. 1-13; and

Species II. Figs. 14-44.

The species are independent or distinct because each one of the species has at least a unique feature that is not presented in other species. See the description of the drawings in the specification.

6. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, it appears that claim 16 is generic.

7. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims

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readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

8. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

9. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

10. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

11. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor or at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a

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request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

12. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR. 1.143).

*Conclusion*

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (501) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ghassem Alie  
Patent Examiner  
Art Unit 3724



October 27, 2007